



Summary of Pestalozzi Trust's letter to the President

Read the full letter [here](#).

The Pestalozzi's Trust concerns cover three areas:

1. **Flaws in the Socio-Economic Impact Assessment (SEIA)**
2. **Procedural Issues**
3. **Constitutionality**

1. Flaws in the Socio-Economic Impact Assessment (SEIA)

Flaws in the SEIA process

In 2017, the Department of Basic Education (DBE) violated SEIAS guidelines by inviting public comments on the BELA Bill without providing a SEIA.

This glaring omission meant that the public could not make informed and meaningful comments. This is a very serious lapse in procedure.

Even when a SEIA was finally published the following year, it did not consider home schooling.

When the Trust contacted the DBE to collaborate and share its own research into home schooling, they were ignored, and the home-schooling sector continued to be side-lined by the DBE.

Flaws in the SEIA itself

When a SEIA was finally made available for public comment in 2022, the provisions related to home education did not give the necessary information for meaningful consideration of the impact of the Bill.

This was again due to a lack of research. The DBE's own documents admit that no research into home education was conducted in the preparation of the SEIA.

Therefore key information on the sector was not available to either Parliament or to the public.

Critical annexures were omitted in presentations to Parliament, and the public was not given access to any of them. Even then, the home education annexure covered only grades 10-12, for which registration is not required, instead of grades R-9, leading to incorrect and irrelevant cost assessments.

The SEIA did not consider the significant cost savings home education provides to the state, or the financial risks posed by the proposed regulations.

Furthermore, the financial impact of the penalty clause both on families and the state was not considered.

This penalty focuses on administrative compliance rather than the quality of education, which negatively impacts the freedom of parents to choose the best education for their children.

2. Procedural Issues

Abuse of Public Participation Processes

In various meetings, the public was obstructed from fully participating in the process.

In some places, children were excluded from making comments, despite being directly impacted by the Bill.

Elsewhere, officials monopolised the microphone until the last few minutes of the meeting, leaving little time for public participation.

In some meetings, the committee did not provide copies of the Bill, and the public were expected to print their own. This excluded many who did not have the resources to do so.

Overall, there was inadequate pre-education about the Bill, which hindered meaningful participation from the public.

Ignored and Misrepresented Submissions

The Trust's extensive letter detailing these procedural failures in the National Council of Provinces (NCOP) was largely ignored.

Furthermore, Advocate Ngema of Parliamentary Legal Services misrepresented the Trust's proposal as being "substantially the same" as the BELA Bill, misleading committee members and undermining the Trust's actual stance.

Lack of Engagement with Home Schoolers

While the Bill was being prepared by the DBE, promises of engagement from officials were not honoured.

Despite claims of extensive consultation, actual meetings with home schoolers were minimal and not related to BELA Bill. Meetings with officials focused on implementation of the Policy on Home Education rather than meaningful input on the Bill.

This lack of engagement is demonstrated by the DBE ignoring the Trust's research and suggestions to improve the SEIA, among many other instances.

The DBE's false claims of extensive consultation with home schoolers were refuted by Cape Home Educators in an NCOP submission. This misrepresentation was ignored by the majority of the Select Committee, which believed, or pretended to believe, that extensive consultation had taken place.

Overall, these procedural flaws reflect a failure by the NCOP to comply with the Constitutional requirement to facilitate public involvement.

3. Constitutionality

Due to the lack of research, the BELA Bill ignores the unique way in which home schooling is practiced in South Africa.

Home education differs fundamentally from conventional schooling, requiring different monitoring and assessment methodologies. The Bill homogenises learners and neglects their individual well-being, personal development and best interests.

This, along with the imposition of registration requirements and penal sanctions, goes against the pluralistic and diverse society sought to be achieved through the equality clause of the Constitution.



The harsh penalties outlined in the Bill may deter parents from choosing to home school, impacting their duty and right to choose a form of education that is in the best interests of the child.

Finally, the vague and overlapping regulations between provinces and sectors could result in arbitrariness and unequal treatment of home schooling community members, causing legal uncertainty and prejudice.

